

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:09-CR-216-2-FL
NO. 5:09-CR-216-3-FL
NO. 5:09-CR-216-5-FL
NO. 5:09-CR-216-7-FL
NO. 5:09-CR-216-8-FL

UNITED STATES OF AMERICA)	
)	
v.)	<u>GOVERNMENT'S PROPOSED</u>
)	<u>QUESTIONS OF VOIR DIRE</u>
HYSEN SHERIFI)	Fed. R. Crim. P. 24(a)
ANES SUBASIC)	Local Rules 6.02 and
DYLAN BOYD, a/k/a "Mohammed")	49.00, E.D.N.C.
MOHAMMAD OMAR ALY HASSAN)	
ZIYAD YAGHI)	

The United States of America, by and through the United States Attorney for the Eastern District of North Carolina, pursuant to Rule 24(a) of the Federal Rules of Criminal Procedure and Local Rules 6.02 and 49.00, respectfully requests that this Court include in its examination of prospective jurors the questions listed below (This proposed Voir Dire is filed separate and aside from the earlier Questionnaire):

A. Case Information

1. The Court and the parties estimate that after a jury is selected, this case will last approximately 6 to 8 weeks. It is anticipated that the jury in this case will be sitting four (4) days per week, Tuesday, Wednesday, Thursday, and Friday, 9:00 a.m. to 5:00 p.m. However, if it becomes necessary, we may have to sit five (5) days per week. Jury service is one of the highest duties and privileges of a citizen. Mere inconvenience or the usual financial hardships of jury service will be insufficient to excuse a prospective juror. Do you wish to apply to the Court to be

excused on the ground that jury service in this case would be an extreme hardship?

2. The Government is represented in this case by Assistant United States Attorneys, John S. Bowler and Barbara D. Kocher, and Department of Justice Trial Attorney Jason Kellhofer, though the conduct of the case is in the immediate charge of the Government attorneys appearing in the courtroom. Do you or does any relative or close friend of yours know or have any connection with these attorneys?

3. Do you or any relative or close friend of yours know or have any connection with any of the defendants? Namely, Hysen Sherifi, Anes Subasic, Dylan Boyd, a/k/a "Mohammed," Mohammad Omar Aly Hassan, or Ziyad Yaghi.

4. Have you seen, heard, or read anything about any of the defendants? This includes not only the media, but anything you may have heard from friends, relatives, or co-workers.

5. Do you or any relative or close friend of yours know of, or have any connection with any of the defense lawyers or their staff? Namely, Robert J. McAfee, Paul Sun, R. Daniel Boyce, James M. Ayers, II, or Joseph E. Zeszotarski, Jr.

6. This case is about allegations of conspiring to provide material support or resources to terrorists and conspiracy to commit murder overseas. Have you read, seen, or heard anything about this case?

7. If you have seen, heard, or read something about this case, any of the defendants or attorneys, or witnesses is there anything about what you have heard, seen, or read that would prevent you from rendering a fair and impartial verdict based solely on the evidence presented in court?

8. A jury's job is to decide the guilt or innocence of a defendant. If a defendant is found guilty, the subject of penalty or punishment is determined by the judge. It would therefore be improper for you to discuss or consider the subject of penalty or punishment in determining a verdict. Do you agree that you will be able to abide by this principle in order to fairly and appropriately consider the evidence in determining a verdict?

9. Does everyone understand that the law prohibits attorneys from talking to jurors during the trial? Therefore, if you see any of the attorneys either in the courtroom or outside of the

courtroom, do you agree to not be offended if we purposefully avoid contact with you?

B. Personal and Family Information

10. Please tell us the county you live in and how long you have been there. Do not give a street address.

11. What is your present marital status?

12. Do you have children? If yes, how many children do you have and what are their ages?

13. Are you, your spouse, or former spouse a naturalized U.S. Citizen? In other words, not a citizen by birth but you had to apply and gain citizenship.

14. Are your parents, in-laws, or grandparents naturalized U.S. Citizens?

15. Do you have any physical problems or disabilities that might interfere with your ability to serve as a juror or may cause you difficulty in hearing, seeing, or understanding evidence in a trial?

16. Are you taking any medication that might impact your ability to serve as a juror?

17. Do you have any difficulty reading or understanding English?

18. Do you have a vacation scheduled for which you have prepaid or made a financial commitment?

C. Education

19. What is the highest grade that you completed in school?

20. If you continued your education beyond high school, what was your major area(s) of study?

21. What degrees have you earned?

D. Employment

22. Are you the sole source of income for your immediate family?

23. If you are not employed, are you now a student? If so,

where do you attend school and how many days per week do you attend?

24. If you are now employed, please describe your job.

25. If you have not been employed with your current employer for more than one year, please describe your last job prior to your current job.

26. If you are married, please describe your spouse's current job.

27. If you have children who are now employed, please describe their current job(s).

E. Other Personal/Family Information

28. Have you or any member of your immediate family ever served in the military, including the National Guard and the military reserves?

29. If any members of your family are currently in the military, are any of them currently deployed/stationed overseas? If yes, please explain.

30. Were you or any members of your family ever involved in a military court martial?

31. Is there anything in particular about a case involving a charge of terrorism that would make it especially difficult for you to serve as a fair and impartial juror in this case?

32. Do you hold any beliefs that the U.S. Government - either politically, legally, or through other means - currently and unfairly targets a specific religion or ethnicity?

33. Without inquiring into each juror's personal religious beliefs, does any juror have any belief that would prevent him or her from judging the facts in this case and rendering a verdict, either guilty, or not guilty, based on the evidence and the Court's instructions on the law?

F. Media

34. This case may receive media attention. The Court wants to make sure that this case is decided solely on the evidence presented in the courtroom and not based on things that are said outside the courtroom. Accordingly, the Court will be advising you periodically that you must avoid reading about the case in the

newspapers or the internet, or listening to any radio or television reports about the case. The Court will also advise you periodically that you must avoid discussing this case with friends or family during the course of the trial. Would these requirements pose any difficulty for you?

G. Associations/Affiliations

35. If the evidence displays that one or more of the defendants are Muslim, is there anything about this fact alone that would cause to you assume they must be guilty or innocent?

H. Foreign Countries

36. Do you speak Arabic or Albanian (or any dialect of Arabic or Albanian) or did you grow up in households where either of these languages or any of their dialects were spoken?

37. Do you read any Arabic or Albanian language newspapers or publications? If so, please provide the name.

38. Do you watch any Arabic or Albabian language television programs, including newscasts? If so, please provide the name of the program or newscast.

39. If you speak, read, or understand Arabic or Albanian (or any of its dialects), would you have any difficulty relying upon the official interpreter's translation of testimony, and witnesses' translations of Arabic or Albanian language evidence?

40. Have you worked in or traveled to Afghanistan, Jordan, Bosnia, Kosovo, or Iraq?

I. Law/Law Enforcement

41. Have you ever served as a juror, either on a jury trial or grand jury?

42. Have you or any close friends or relatives had any education or training in the law?

43. Have you or any member of your family every worked in any law related profession (i.e., attorney, paralegal, legal assistant, legal secretary, clerk, etc.)?

44. Have you ever been employed by a law enforcement agency?

45. Have you or anyone close to you ever been charged with a crime or been the subject of a criminal investigation?

46. Have you ever been involved in, or do you expect to become involved, in any legal action or dispute with the United

States or any agency, officer, or employee of the United States, or have you ever had any financial interest in such a dispute?

47. Have you, any member of your family, or a close friend ever been falsely accused of anything?

48. Would you be able to follow the Court's instructions in judging the testimony of a law enforcement officer?

49. You may hear testimony in this case concerning the use of informants and/or cooperating witnesses by federal authorities in their investigations. One or more of those individuals may be called to testify in this case and you may learn that some of the individuals have participated in various crimes. Would you be able to follow the Court's instructions in judging the testimony of such witnesses?

50. There may also be evidence seized pursuant to searches of various places, including the homes of some of the defendants. Do you have any feelings that would interfere with your consideration of evidence obtained from lawfully conducted searches?

51. To your knowledge, have you or any close friend or relative, ever been the subject of a surveillance (visual, photographic, or electronic) by law enforcement. Have you or any close friend or relative, ever been the subject of or had your car or home searched by law enforcement officers?

52. Is there any matter not covered by these questions that you feel you should tell us about?

Respectfully submitted this 29th day of August, 2011.

THOMAS G. WALKER
United States Attorney

/s/ John S. Bowler

JOHN S. BOWLER
BARBARA D. KOCHER
Assistant United States Attorneys
United States Attorney's Office
310 New Bern Ave., Suite 800
Raleigh, NC 27601
Telephone (919) 856-4312
Fax (919) 856-4828
Email: john.s.bowler@usdoj.gov
State Bar NC # 18825
Tel: 919-856-4530
Email: barb.kocher@usdoj.gov
State Bar NC # 16360

/s/Jason Kellhofer
JASON KELLHOFER
Trial Attorney
U.S. Department of Justice
National Security Division
Counter-Terrorism Section
10th St. And Penn. Ave., N.W.
Room 2740
Washington, DC 20530
Tel: (202) 353-7371
Fax: (202) 353-0778
Email: jason.kellhofer@usdoj.gov
OH Bar # 0074736

CERTIFICATE OF SERVICE

This is to certify that I have this 29th day of August, 2011, served a copy of the foregoing upon counsel for the defendants in this action by electronically filing the foregoing with the Clerk of Court, using the CM/ECF:

Debra C. Graves
F.P.D.
150 Fayetteville St. Mall
Suite 450
Raleigh , NC 27601-8005

Rosemary Godwin
Federal Public Defender
150 Fayetteville St. Mall
Suite 450
Raleigh , NC 27601-2919

Robert J. McAfee
McAfee Law, P.A.
P. O. Box 905
New Bern , NC 28563

Paul Sun
P.O. Box 33550
Raleigh, NC 27636

R. Daniel Boyce
Nexsen Pruet, PLLC
4141 Parklake Ave., Suite 200
P. O. Box 30188
Raleigh, NC 27612

James M. Ayers, II
307 Metcalf Street
Post Office Box 1544
New Bern, North Carolina 28563

Myron T. Hill , Jr.
Browning & Hill
200 E. Fourth St.
Greenville , NC 27835

Joseph E. Zeszotarski, Jr.
Poyner & Spruill
PO Box 1801
Raleigh, NC 27602

and by placing a copy in first class mail, postage prepaid, addressed to: Anes Subasic, Public Safety Center, Attn: Wake County Jail, Post Office 2419, Raleigh, NC 27602.

/s/ John S. Bowler
BY: JOHN S. BOWLER
Assistant United States Attorney
Criminal Division
United States Attorney's Office
310 New Bern Avenue, Suite 800
Raleigh, NC 27601
Telephone: 919-856-4530
Fax: 919-856-4487
E-mail: john.s.bowler@usdoj.gov
State Bar No. NC 18825